

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Focal Communications  
Corporation of California U-5922-C for Authority  
to Discontinue Services to Certain Customers in  
the State of California.

Application 03-03-033  
(Filed March 24, 2003)

**OPINION AUTHORIZING PARTIAL WITHDRAWAL FROM SERVICE****1. Summary**

This decision authorizes Focal Communications Corporation of California (Applicant) to withdraw from the provision of local exchange and interexchange services to approximately 41 business customers in California. Customers will be transferred to their choice of carrier. Applicant will continue to offer services to other customers.

**2. Background**

Applicant, a Delaware corporation, was authorized by Decision (D.) 98-01-015 and D.98-03-066 to operate in California as a local exchange and interexchange carrier (U-5922-C).

**3. The Application**

On December 19, 2002, Applicant filed for bankruptcy under Chapter 11 of the United States Bankruptcy Code in the U.S. Bankruptcy Court for the District of Delaware. The proposed discontinuance is part of Applicant's plan to make

its operations more efficient, and to emerge from bankruptcy as a viable telecommunications provider.

Applicant proposes to discontinue services to approximately 41 business customers in 23 buildings. The buildings are located in the following cities: Inglewood, Long Beach, Santa Monica, Irvine, Los Angeles, Beverly Hills, Oakland, and Newport Beach. It represents that it cannot provide services to the affected buildings at competitive rates, and still cover costs. However, Applicant intends to continue providing services to 844 business customers. Applicant has no residential customers.

Applicant proposes to transfer the customers to their carriers of choice.

Applicant states that its customers were given written notice of the discontinuance on March 17, 2003, with a planned discontinuance date of April 30, 2003, subject to the Commission's approval.

#### **4. Discussion**

Competitive local carriers such as applicant are typically not the carrier of last resort for their customers. Therefore, the Commission's primary concern is that customers receive proper notice of the withdrawal from service. The same is true for interexchange carriers. Notice requirements were developed in D.97-06-096 for advice letter filings for customer transfers. The requirements are useful as a guide in this proceeding. They are as follows:

- "1. The notice must be in writing;
- "2. The carrier must provide it to customers no later than 30 days before the proposed transfer;
- "3. The notice must contain a straightforward description of the transfer, any fees the customer will be expected to pay, a statement of the customer's right to switch to another carrier, and a toll-free number for questions; and

“4. The notice and the carrier’s description of service to customers must be included in the advice letter.”

Applicant provided a copy of the notice it sent to its customers with the application. The notice was sent at least 30 days before service termination, provided a toll-free number for customers to call for questions, and indicated that termination is subject to the Commission’s approval. Applicant will not be charging any fees to the affected customers as a result of the termination. Therefore, the Commission’s notice requirements are satisfied.

Granting this application is not adverse to the public interest because the affected customers can obtain service from other carriers. Accordingly, the application should be granted.

## **5. Comments on Draft Decision**

This is an uncontested matter, in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

## **6. Procedural Matters**

In Resolution ALJ 176-3110 dated April 3, 2003, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. There is no apparent reason why the application should not be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

## **7. Assignment of Proceeding**

Geoffrey F. Brown is the Assigned Commissioner and Jeffrey P. O’Donnell is the assigned Administrative Law Judge in this proceeding.

**Findings of Fact**

1. The application appeared in the Daily Calendar on March 26, 2003.
2. No protests have been filed.
3. Applicant is authorized to provide local exchange and interexchange services in California.
4. Applicant filed for bankruptcy protection on December 19, 2002.
5. The notice requirements in D.97-06-096 are useful as a guide in this proceeding.
6. Applicant's notice satisfies the Commission's notice requirements

**Conclusions of Law**

1. A hearing is not necessary.
2. Granting this application is not adverse to the public interest.
3. The application should be granted.
4. This order should be made effective immediately, so that the withdrawal can be implemented as soon as possible.

**O R D E R**

**IT IS ORDERED** that:

1. The application of Focal Communications Corporation of California to withdraw from the provision of local exchange and interexchange services to approximately 41 business customers located in 23 buildings in the cities of Inglewood, Long Beach, Santa Monica, Irvine, Los Angeles, Beverly Hills, Oakland, and Newport Beach is approved subject to the following conditions.
2. Applicant shall transfer its customers to their carriers of choice.

3. Applicant shall not terminate service to any customer until 30 days after notice was mailed to the customer, or the effective date of this decision, whichever is later.

4. Applicant shall notify the Director of the Commission's Telecommunications Division in writing of the date service is terminated to the affected customers, within 10 days after termination.

5. The authority granted in this order shall expire if not exercised within 12 months after the effective date of this order. This application is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.